

110 FERC ¶ 61,168  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

February 16, 2005

In Reply Refer To:

AES Ocean Express, LLC  
Docket No CP02-93-002  
Draft Presidential Permit

The Honorable Condoleezza Rice  
Secretary of State  
Washington, D.C. 20520

Dear Madam Secretary:

Enclosed for your information and consideration is a copy of an application filed by AES Ocean Express LLC (Ocean Express) with the Federal Energy Regulatory Commission (Commission) on September 9, 2004, in Docket No. CP02-93-002.<sup>1</sup> Ocean Express seeks to amend its existing Presidential Permit, issued pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00, to increase the diameter of its certificated natural gas pipeline from 24 to 26 inches. Ocean Express explains that increasing the diameter of the pipeline will permit it to increase hourly flow rates to accommodate the operational needs of gas recipients; the certificated capacity of the pipeline will remain unchanged.

The Commission issued Ocean Express a Presidential Permit and Natural Gas Act section 3 authorization on January 29, 2004.<sup>2</sup> Ocean Express is authorized to site, construct, operate, maintain, and connect a 24-inch natural gas pipeline located immediately adjacent to the boundary between the Exclusive Economic Zones of the United States and the Commonwealth of the Bahamas.

---

<sup>1</sup> Ocean Express supplemented its application on September 15, 2004 and September 20, 2004.

<sup>2</sup> 106 FERC ¶ 61,090 (2004).

Enclosed is a copy of Ocean Express's existing Presidential Permit, which incorporates terms and conditions you and the Secretary of Defense have heretofore required in similar cases. Also enclosed is Ocean Express's draft amended Permit. In addition to Ocean Express's proposal to increase the diameter of its proposed pipeline from 24 to 26 inches, as reflected in Article 2 of the draft Permit, consistent with current Commission policy, Article 9 of the draft Permit is revised to state that Ocean Express is required to defer to the Commission's finding and requirement regarding which authorized facilities should be removed and which should remain in place, in the event that they are no longer used.

A similar letter, together with a draft of the proposed Presidential Permit and a copy of the application, is being sent to the Secretary of Defense. If the Secretary of Defense should make an unfavorable recommendation or propose any material change in the draft of the Permit, the Commission will immediately advise you.

The Commission would appreciate receiving your views regarding issuance of the proposed amended Permit at an early date. Please do not hesitate to contact me at (202) 502-8400, or Gordon Wagner at (202) 502-8947, if you need any further information.

By direction of the Commission.

Magalie R. Salas,  
Secretary.

Enclosures:

Application  
Existing Permit  
Draft Permit

**Existing Presidential Permit**

**PRESIDENTIAL PERMIT  
AUTHORIZING AES OCEAN EXPRESS, LLC  
TO CONSTRUCT, CONNECT, OPERATE, AND MAINTAIN  
NATURAL GAS FACILITIES AT THE BOUNDARY  
BETWEEN THE EXCLUSIVE ECONOMIC ZONES OF  
THE UNITED STATES THE COMMONWEALTH OF THE BAHAMAS**

**FEDERAL ENERGY REGULATORY COMMISSION  
DOCKET NO. CP02-93-002**

AES Ocean Express, LLC (Permittee), a limited liability company organized and existing under the laws of the State of Delaware, filed an application on February 21, 2002, in Docket No. CP02-90-000, as amended on October 18, 2002, in Docket No. CP02-90-001, pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00, for a Presidential Permit authorizing Permittee to construct, connect, operate, and maintain natural gas transmission facilities described in Article 2 below in waters off the southeast coast of Florida at the boundary between the Exclusive Economic Zones of the United States and the Commonwealth of the Bahamas.

By letter dated \_\_\_\_\_, the Secretary of State, and by letter dated \_\_\_\_\_, the Secretary of Defense, favorably recommended that the Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of a Permit is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 3, 1953, and February 3, 1978, respectively, the Secretary of Energy's Delegation Order No. 00-004.00, effective December 6, 2001, and the Commission's Regulations, permission is granted to Permittee to construct, connect, operate, and maintain the natural gas facilities described in Article 2 below, upon the terms and conditions of the Permit.

Article 1. It is expressly agreed by the Permittee that the facilities herein described shall be subject to all provisions and requirements of this Permit. This Permit may be modified or revoked by the President of the United States or the Federal Energy Regulatory Commission and may be amended by the Federal Energy Regulatory Commission upon proper application therefor.

Article 2. The following facilities are subject to this Permit: that portion of the 24-inc pipeline which is located in the United States immediately adjacent to the boundary between the Exclusive Economic Zones of the United States and the Commonwealth of the Bahamas.

Article 3. The natural gas facilities authorized herein, or which may subsequently be included herein by modification or amendment, may be utilized for the transportation of natural gas from the Bahamas to the United States only in the amount, at the rate, and in the manner authorized under section 3 of the Natural Gas Act.

Article 4. The construction, operation, maintenance, and connection of the aforesaid facilities shall be subject to the inspection and approval of representatives of the United States. The Permittee shall allow officers and employees of the United States, showing proper credentials, free and unrestricted access to the land occupied by the facilities in the performance of their official duties.

Article 5. If in the future it should appear to the Secretary of the Army that any facilities or operations permitted hereunder cause unreasonable obstruction to the free navigation of any of the navigable waters of the United States, the Permittee may be required, upon notice from the Secretary of the Army, to remove or alter the same so as to render navigation through such waters free and unobstructed.

Article 6. The Permittee shall be liable for all damages occasioned to the property of others by the operation or maintenance of the facilities, and in no event shall the United States be liable therefor. The Permittee shall do everything reasonable within its power to prevent or suppress fires on or near land occupied under this Permit.

Article 7. The Permittee agrees to file with the Commission, under oath and in such detail as the Commission may require, such statements or reports with respect to the natural gas exported or the facilities described herein, as the Commission may, from time to time, request. Such information may be made available to any federal, state, or local agency requesting such information.

Article 8. Neither this Permit nor the facilities, nor any part thereof, covered by this Permit shall be voluntarily transferred in any manner, but the Permit shall continue in effect temporarily for a reasonable time in the event of the involuntary transfer of the facilities by operation of law (including transfer to receivers, trustees, or purchasers under foreclosure or judicial sale) pending the making of an application for a permanent Permit and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the facilities authorized by this Permit remain

substantially the same as before the involuntary transfer. The Permittee shall maintain the facilities in a condition of repair for the efficient transportation of natural gas and shall make all necessary renewals and replacements.

Article 9. Upon the termination, revocation, or surrender of this Permit, the transportation facilities herein authorized shall be removed within such time as the Commission may specify, and at the expense of the Permittee. Upon failure of the Permittee to remove such transportation facilities or any portion thereof, the Commission may direct that possession of the same be taken and the facilities be removed, at the expense of the Permittee, and the Permittee shall have no claim for damages by reason of such possession or removal.

Article 10. The Permittee agrees that when, in the opinion of the President of the United States, evidenced by a written order addressed to it as holder of this Permit, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any of the facilities, or parts thereof, maintained or operated under this Permit, and all contracts covering the transportation or sale of natural gas by means of said facilities, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the Permittee; and in the event that the United States shall exercise such right it shall pay the Permittee just and fair compensation for the use of said facilities upon the basis of a reasonable profit in time of peace, and the cost of restoring said facilities to as good condition as existed at the time of taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the Permittee.

Article 11. This Permit is subject to any action which the Government of the United States may in the future deem expedient or necessary to take in case any part of the aforesaid facilities comes into the control of any foreign government.

Article 12. The Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, agreement, or otherwise, be granted by the Permittee to any foreign government.

By direction of the Commission.

Secretary

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of \_\_\_\_\_ has caused its named to be signed by \_\_\_\_\_, pursuant to a resolution of its Board of Directors duly adopted on the \_\_ day of \_\_\_\_\_, \_\_\_\_\_, a certified copy of the record of which is attached hereto.

AES Ocean Express, LLC

By\_\_\_\_\_

(Attest)

\_\_\_\_\_

Executed in triplicate